IN THE HIGH COURT OF JUDICATURE AT PATNA
MA No.133 of 2006
NATIONAL INSURANCE CONPANY LTD,
Branch Office at Khagaria through its Branch Manager and Divisional Manager
at Divisional Office at sumrit Mandal Complex,
Jail lRoad, Tilkamanjhi, Bhagalpur.

----- Appellants.

Versus

1. RITA DEVI,w/o. late Suman Mehter,
   r/o. village Khagra, Police Station Prabatta, Distt. Bhagalpur.
2. Madan Prasad Sharma @ Madan Sharma, s/o. Bisundeo Sharma,
   r/o. village Singhia Makandpur, P.S. Gopalpur, District- Bhagalpur.

------ Respondents.

8 04.12.2008 This appeal is against the order dated 30.01.2006 of the A.D.J. II-cum-Motor Vehicles Accident Claims Tribunal, Naugachhia as passed in Claim Case No.170 of 2004, whereby under an interim order, under Section 140 of the Motors Vehicle Act (hereinafter referred to as the Act) a compensation of Rs.50,000/- on no fault basis has been ordered to be paid by the appellant National Insurance Company.

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The brief facts resulting into the accident was that the deceased was killed as a result of having been crushed under the wheels of tractor-trailor Nos. BR10C/7316 and BR-10G-0548 respectively, which has been insured by the appellant Insurance Company. Learned counsel for the appellant submitted that the

appellant is not liable for the compensation and he denies his liability in view of the facts that the deceased was traveling on the trailor and he was crushed under wheels of the trailor while coming down from it. It was also submitted that only the tractor was insured under "Farmers Package Policy" and that it did not cover any risk with respect to anybody excluding the driver who was traveling on the tractor. Learned counsel for the respondent submitted that according to the F.I.R., the deceased had been crushed under the wheel of tractor due to rash and negligent driving of the driver at the moment when the deceased was getting down from the tractor.

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Be that as it may the matter is to be finally decided by the trial court on the basis of the evidence adduced before it.

The Claim under Section 140 of the Act is decided on the basis of the prima facie finding that the accident was caused by the vehicle and the insurer of the vehicle is primarily liable for the compensation to pay interim compensation on the basis of no fault basis.

In such view of the matters, the impugned order

as passed by the Claims Tribunal is just and proper and it needs no interference. The appellant is at liberty to take any defence before the claims tribunal as available under law.

Learned counsel for the appellant seeks permission to withdraw the statutory amount deposited at the time of filing of this appeal. He is permitted to do so.

(C.M. Prasad, J.)

Mkr.

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